

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALBERT WILLIAM DAVIS,

Defendant-Appellant.

UNPUBLISHED

May 22, 2003

No. 237601

Kalamazoo Circuit Court

LC No. 00-000245-FH

Before: Saad, P.J., and Meter and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from a jury trial conviction of fourth-degree fleeing and eluding a police officer, MCL 750.479a(2). The trial court sentenced defendant, as a second-offense habitual offender, MCL 769.10, to one year probation. We affirm.

Defendant challenges the sufficiency of the evidence supporting his conviction. A challenge to the sufficiency of the evidence requires us to determine “whether the evidence, viewed in a light most favorable to the people, would warrant a reasonable juror in finding guilt beyond a reasonable doubt.” *People v Nowack*, 462 Mich 392, 399; 614 NW2d 78 (2000).

The fleeing and eluding statute, MCL 750.479a, provides in pertinent part as follows:

(1) A driver of a motor vehicle who is given by hand, voice, emergency light, or siren a visual or audible signal by a police or conservation officer, acting in the lawful performance of his or her duty, directing the driver to bring his or her motor vehicle to a stop shall not willfully fail to obey that direction by increasing the speed of the vehicle, extinguishing the lights of the vehicle, or otherwise attempting to flee or elude the police or conservation officer. This subsection does not apply unless the police or conservation officer giving the signal is in uniform and the officer’s vehicle is identified as an official police or department of natural resources vehicle.

In the absence of any aggravating factors, a violation of MCL 750.479a(1) results in a conviction of fourth-degree fleeing and eluding, MCL 750.479a(2).

Here, defendant contends that there was insufficient evidence supporting his conviction because the police officers who stopped his vehicle were not wearing uniforms, as required by the statute. However, the evidence indicated that the police officers were wearing blue nylon

jackets with the word “POLICE” printed in white letters on both the front and back. Viewing this evidence in a light most favorable to the prosecution, the evidence was sufficient for the jury to have found that the police officers were wearing uniforms. *Nowack, supra* at 399. Therefore, there was sufficient evidence for the jury to find that defendant’s act of driving away from those officers demonstrated a “willful” intent to flee and elude.¹ *Id.*

Defendant also contends that the trial court erred as a matter of law in construing “uniform,” MCL 750.479a(1), to include what the police officers were wearing when they stopped defendant. However, whether the police officers were wearing uniforms was not a legal issue, but a factual issue to be resolved by the jury. We review a jury’s findings of fact for clear error. *People v Rodriguez*, 251 Mich App 10, 25; 650 NW2d 96 (2002). A finding is only clearly erroneous where, after reviewing the entire record, we are “left with a definite and firm conviction that a mistake has been made.” *People v Parker*, 230 Mich App 337, 339; 584 NW2d 336 (1998). Here, the police officers were wearing jackets with POLICE printed on the front and back. Moreover, the evidence also indicated the police officers were driving a semi-marked vehicle. Viewed together, we are not persuaded that the jury clearly erred in finding that the police officers were wearing uniforms. *Id.* Consequently, defendant’s contention of error is without merit.

Affirmed.

/s/ Henry William Saad

/s/ Patrick M. Meter

/s/ Donald S. Owens

¹ In addition, the jury’s finding is supported by the evidence indicating that the officers were driving a semi-marked vehicle.